

CLAIMS: THE CASE OF CHARLES OBERLANDER AND BARBARA M. MESSENGER

Protocol signed at Washington March 2, 1897

Entered into force March 2, 1897

*Terminated November 19, 1897*¹

30 Stat. 1593; Treaty Series 239

PROTOCOL OF AN AGREEMENT BETWEEN THE SECRETARY OF STATE OF THE UNITED STATES AND THE ENVOY EXTRAORDINARY AND MINISTER PLENI- POTENTIARY OF THE UNITED STATES OF MEXICO FOR SUBMISSION TO AN ARBITRATOR OF THE CLAIMS OF CHARLES OBERLANDER AND BARBARA M. MESSENGER

The United States of America and the United States of Mexico, through their representatives, Richard Olney, Secretary of State of the United States of America, and Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico, have agreed upon and signed the following protocol:

Whereas the United States of America, on behalf of Charles Oberlander and Barbara M. Messenger, citizens of the United States of America, have claimed indemnity from the Government of Mexico for injuries alleged to have been done to the said Oberlander and Messenger by Mexican citizens, and whereas the United States of Mexico deny the allegations of fact upon which these claims are based and the right of the United States of America to demand indemnity for either of those parties, it is therefore agreed between the two Governments, with the consent of the said Oberlander and Messenger, given through their respective attorneys of record.

I

That the questions of law and of fact brought into issue between the two Governments in respect of these claims shall be referred to the decision of Señor Don Vicente G. Quesada, Minister of the Argentine Republic at Madrid, who is hereby fully authorized thereto as arbitrator.

¹ Date on which the arbitrator rendered his award, declaring that the Government of the United States of Mexico was under no obligation to pay indemnity of any kind to the claimants.

II

That each Government shall submit to the arbitrator within three months from the day on which both Governments shall receive official notice from Señor Don Vicente G. Quesada that he accepts the office of arbitrator by permission of his Government, copies of the correspondence, documents and proofs which it has already submitted for the consideration of the other Government in respect of the two claims; and that the arbitrator in making his award shall take into consideration only such issues of law and fact as arise upon said correspondence, documents and proofs.

III

That each Government may submit with the papers above described an argument setting forth its own views of the two cases, but the arbitrator shall not be authorized or required to hear oral arguments or to call for new evidence: unless, after examining the documents submitted to him, he may deem it necessary to call for evidence or arguments elucidating a particular point not made clear to him.

IV

The arbitrator shall render his decision within six months from the date of the submission to him of the proofs, documents, etc., by both parties. He shall decide on the proofs and arguments submitted to him whether the said Oberlander or the said Messenger is or is not entitled to any indemnification on the part of the Government of Mexico, and in case he shall decide this point affirmatively with respect of both or either of the two claimants, he will fix the amount of the indemnity to which each or either is entitled: *Provided*, that the indemnity shall not in either case exceed the sum demanded by each claimant in the papers submitted by each to the United States.

V

Reasonable compensation to the arbitrator, and the other common expenses occasioned by the arbitration shall be paid in equal moities by the two Governments:

VI

Any award made by the arbitrator shall be final and conclusive and if in favor of the claimants or of either of them and of the contention of the United States of America, the amount so awarded be paid by the Government of Mexico as soon as appropriated by the Mexican Congress, but not later than two years from the date of such award.

Done in duplicate at Washington this 2nd day of March, 1897.

RICHARD OLNEY
M. ROMERO